



ITG News

Keeping First Nations Informed



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Message From The Director

In July we mailed our first ever Customer Satisfaction Survey to each of the 564 federally-recognized tribes. This effort was part of our desire to have our customers provide us with direct feedback on how well we are doing our job and meeting their needs and expectations.

I am pleased to report that the overall level of satisfaction was very high. However, that does not mean that we cannot improve. In fact, the survey results provided us with several areas where we will be undertaking actions. Many of those actions are included in a summary that we posted to our web site at www.irs.gov/tribes, but I also want to share some of the more significant actions that we are planning.

First, we will be making a renewed effort to ensure that every tribe is aware of our office and our mission. We will attempt to accomplish this through a marketing effort that will provide tribal contacts with readily accessible information on contact points and work hours for their assigned field specialists. We will also provide information on back-up contacts in the event that the primary contact is not available.

Second, we are initiating steps to improve access to our office and tax information through our web site. Many of our existing features, including our e-mail link, will be redesigned to attempt to improve their visibility, and the ability of our customers to locate the information that is utilized the most often. We will also be focusing efforts on working with tribes to remedy the cause of penalties, and to better address the tax issues for their members. Other actions are listed on our web site.

I want to thank each tribe that took the time to complete and return the survey. Your feedback is very important to us, and I look forward to your continuing feedback in the future.

Christie Jacobs



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To add your name or e-mail address to our mailing list, please contact us via e-mail at Linda.M.Sweet@irs.gov, or call 918-581-7030 ext. 243

*Account or Tax Questions??
Call Customer Account Services
at 1-877-829-5500*



Update on Consultation Listening Meetings

Based on the recommendations of the Advisory Committee to the Tax Exempt Government Entities Commissioner, we are currently holding a series of 12 “listening” meetings that are designed to allow tribal input into the scope and process that might be employed in an eventual IRS/Tribal Consultation Policy.

We have completed six of the meetings and have received valuable ideas. However, there are still six additional meetings that will be held during the next three months as follows:

Wednesday October 15th

1:00-4:00pm

Holiday Inn – Duluth, Minnesota

200 West First Street

Thursday October 23rd

1:00-4:00pm

Westmark Hotel – Anchorage, Alaska

720 West 5th Street

Tuesday November 18th

1:00-4:00pm

U.S. Mint Building – Washington, D.C.

801 9th Street NW

Tuesday December 9th

9:30am-12:30pm

Courtyard by Marriott (Airport) – Albuquerque, New Mexico

1920 Yale Blvd SE

Wednesday December 10th

Navajo Nation

Time and Location TBA

Thursday December 11th

1:00-4:00pm

Hilton Phoenix East – Mesa, Arizona

1011 West Holmes Avenue

If you are interested in participating, you can attend any of the remaining meetings by registering on-line through the registration link on our web site at www.irs.gov/tribes. You can also submit input through the e-mail link on the bottom of the registration page. Once all of the meetings are completed, we will be posting a summary of the input received to our web site, and inviting additional comments before any drafting process begins.



Treatment and Information Reporting of Certain Payments Made by Indian Tribal Governments

PART II

In our last newsletter, we published an article concerning the treatment and reporting of certain payments made by Indian Tribal Governments. We received some questions from the field regarding this issue and would like to respond to those questions below:

In our July 2003 Newsletter, we reported that Election Workers were subject to FICA once earnings reached \$1,100. Please note that this threshold is applicable to the 2000 and 2001 tax years and is indexed for inflation for years thereafter. The applicable threshold for the 2002 and 2003 tax years is \$1,200.

Would you like a copy of a previously issued newsletter? If so, please contact

Linda.M.Sweet@irs.gov
or call 918-581-7030
ext. 243.

Prior topics include:

Annual Wage Reporting
New Suspicious Transaction
Reporting for Casinos
Coin-operated Devices and the
wagering excise tax.
Pull-tabs and Information
Reporting
Compliance Checks
Treatment and Information
Reporting of Certain payments
made by ITGs.
Anti-laundering Programs

1. How are council member salaries reported on Form W-2?

Salaries paid to tribal council members for services performed by them as council members are treated differently. These amounts should be included in the council member's gross income. However, they do not constitute wages for purposes of the Federal Insurance Contributions Act (FICA) or federal withholding taxes.

Payments of \$600 or more are reported on Form W-2. Council members' salaries will be shown in Box 1, Wages Tips, Other Compensation, of the Form W-2. Additionally, in Box 14, Other, you should indicate Revenue Ruling 59-354. This will explain why there are no amounts listed in the boxes for Federal Income Tax withheld (Box 2) or FICA (Boxes 3,4, and 7). Part of your responsibility as employer is to provide the council member with either a copy of the Revenue Ruling or a statement advising them that their W-2 is treated differently. The council member should then attach a copy of the Revenue Ruling or statement to their individual tax return.

2. If an election worker meets the threshold for FICA reporting (\$1200 in 2003), is the entire amount of the wages subject to FICA or just the amount of remuneration received that is over the threshold amount?

If an election worker earns more than the FICA threshold for any given year, all the worker's earnings, including the first \$1,200 (2003) are subject to FICA taxes. If it is anticipated that an election worker may earn more than the threshold amount in a calendar year, the tribe may choose to begin withholding FICA taxes on the first dollar earned. If the worker then earns less than \$1,200 in the calendar year, the worker would be entitled to a refund of the erroneously withheld FICA taxes. If the employer chooses not to begin withholding until after the worker earns \$1,200, the employer would be liable for the total amount of FICA taxes due. The employer could recover the employee's share of the FICA from the employee by withholding from future earnings or by other arrangements with the employee.



Gaming Industry Tip Compliance Agreement Program

On May 1, 2003, the IRS issued Revenue Procedure 2003-35 (Internal Revenue Bulletin 2003-20 dated May 19, 2003.) announcing the Gaming Industry Tip Compliance Agreement Program. This new program allows the employer and IRS to establish minimum tip rates for tipped employees in specific occupational categories. The program also specifies a threshold level of participation by the employer's employees. Employers who participate in the program will execute a Gaming Industry Tip Compliance Agreement, which will supersede any existing tip compliance agreement. Terms for the agreement will be for three years, except for new properties, or properties that have not had an agreement with the IRS. Those agreements could be for a shorter period of time. It should be noted that the new program is not replacing the Tip Rate Determination Agreement Program, but is offered as an alternative to it. Entities that are currently covered by a TRDA can convert to the new GITCA if they so desire, and should contact their ITG Specialist to initiate the process.

	(Tip Rate Determination Agreement TRDA)	Gaming Industry Tip Compliance Agreement (GITCA)
Term of Agreement	As stated in agreement, with a current sunset provision of 12/31/07	3 years, but may be extended by mutual agreement
Effective Date	First day of the next calendar quarter following signature by both parties	On date agreed within the body of the GITCA
Reopening of Rates	On application by casino by 9/30 of each year	Mutual agreement of both parties at any time during the term of the agreement
Threshold to Maintain Agreement	75% of eligible employees must participate to guarantee TRDA maintained	50% of eligible employees must participate to guarantee GITCA maintained
IRC 3121(q) Relief	Guaranteed prospective only	If 75% participation is achieved at any time during the life of the GITCA, retroactive protection is given for the full term of the GITCA. In addition, 3121(q) assessments can only be based on audit results of employees, or 4137 reporting by an employee
Form 8027 Filing	Required for all food and beverage operations and employees	Not required for food and beverage operations and employees if records are given to the Service that includes all relevant data
Shift/Hour/Occupational Category Reporting Requirements	Required annually on non-participating employees	Annual reporting required on <u>all</u> employees
Tip Rate Calculation/Methodology	By occupation and shift - occupational exclusions only by choice	By occupation and shift - housekeeping occupations cannot be included
Tip Audits of Participating Employees	No guarantee of retroactive relief	No retroactive audit unless the employee declined prior participation in a TRDA or GITCA
Termination of Agreement	At any time by the casino, or By IRS if less than 75% participation at the end of a calendar year, failure to comply with agreement terms, or where an enforcement proceeding exists	By joint agreement of both parties, or by IRS if participation is less than 50%, the employer fails to attempt to raise participation to 75%, or where an enforcement proceeding exists



Frequently Asked Questions—Tip Income

Are all tips received by an employee taxable income?

All tips received by an employee are taxable income subject to federal income tax.

What are tips of \$20.00 or more while working for any one employer subject to?

Tips paid in cash (or checks or other cash equivalent, including charged tips) of \$20.00 or more, that an employee receives in a calendar month, while working for any one employer, are wages subject to FICA, FUTA, and income tax withholding.

What are tips of less than \$20.00 while working for any one employer subject to?

Tips of less than \$20.00, received by an employee during a calendar month while working for a particular employer, are not wages for FICA, FUTA or federal income tax withholding purposes, even though such tips are taxable income.

What are the requirements when the amount of tips received in a calendar month reaches \$20.00 from any one employer?

Once the amount of tips received in a calendar month reaches \$20.00 from any one employer, the entire amount of tips received is included in wages, not just the amount over \$20.00. An employee who receives \$20.00 or more in tips must report those tips in writing to their employer by the tenth day following the month in which the tips are received.

What is the Tip Rate Determination Agreement and how does it relate to Indian tribal gaming and food service?

The Tip Rate Determination Agreement (TRDA) for the gaming industry has the employer determine tip rates for various occupations within the establishment using historical tip data. The IRS reviews the data and validates the rates to be used. At least 75% of the tipped employees must agree to participate by signing a Tipped Employee Participation Agreement. This is available for all tipped employees, both gaming and non-gaming at the casino.

The new Gaming Industry Tip Compliance Agreement (discussed on page 4 of this newsletter) is a similar program

What Internal Revenue Code section details the reporting of tips by both the employee and the employer?

Internal Revenue Code section 6053 details the reporting of tips by both the employee and the employer. Internal Revenue Code section 6053(a) states that every employee, who in the course of their employment by an employer, receives in any calendar month tips which are wages, as defined in section 3121(a) or section 3401(a), or which are compensation as defined in section 3231(e) shall report all such tips.

What IRS Publications address tip issues for both employees and employers, especially those in the food and beverage industries?

IRS Publications 505, 519, 531, 552, 1872, 1875, and 3079 address tip issues for both employees and employers, especially those in the food and beverage industries.

DON'T FORGET.....

THE LAST DATE TO FILE FUTA CLAIMS FOR THE 2000 TAX YEAR IS JANUARY 31, 2004!!!

PLEASE CONTACT YOUR SPECIALIST IF YOU HAVE ANY QUESTIONS OR NEED ASSISTANCE



Patriot Act Communication System

With the passage of the USA PATRIOT Act of 2001, the Financial Crimes Enforcement Network (FinCEN) was tasked with developing a highly secure network to allow filing institutions to electronically file Bank Secrecy Act (BSA) forms, in particular Currency Transaction Reports (CTRs) and Suspicious Activity Reports (SARs).

In order to meet these requirements, FinCEN has developed the Patriot Act Communication System ("PACS"). The system will allow:

- Filing institutions and other organizations to electronically file CTRs and SARs in a highly secure fashion over the Internet. This includes both single forms as well as batches of forms (i.e., multiple CTRs or SARs contained in electronic batches).
- FinCEN to issue advisories and PACS system updates to the PACS user community
- Members of filing institutions to send secure messages to FinCEN (and receive responses where appropriate).

Effective October 1, 2003 PACS will include the following new forms:

- FinCEN Form 101 (SAR by the Securities and Futures Industries)
- FinCEN Form 102 (SAR by Casinos and Card Clubs)
- FinCEN Form 103 (CTR by Casinos), and
- Form TDF 90-22.56 (SAR by Money Services Business).

How PACS Will Work

Accessing PACS: The PACS system will be hosted on a secure website on the Internet. Filing institution personnel will be able to access PACS only after they have applied for and received a digital certificate from a Government-approved certificate authority.

Using PACS to File BSA Forms: Some institutions regularly file thousands of electronic CTRs and dozens of SARs at a single time. Other institutions file only a small number of electronic or paper-based CTRs and SARs yearly. For both, PACS will serve as another, more efficient conduit for filing BSA forms with the Government. Filing institutions will not be required to file BSA forms using PACS; it will instead be another avenue available to them for filing. All BSA forms and data submitted to PACS are encrypted for protection. At the end of each day, PACS will deliver all submitted BSA data to the IRS Detroit Computing Center for processing. Electronic notification of filings will be provided by PACS to filing institutions.

Alerts and Secure Messaging: FinCEN will use PACS to issue alerts consisting of FinCEN advisories, PACS System updates, and other communications to the PACS user community.

For further information about filing through PACS, visit <http://pacs.treas.gov>. If you have any questions concerning the system, please contact the PACS Help Desk at 1-888-827-2778 (option 6) or via e-mail at PACSHelp@notes.tcs.treas.gov.

Publication 3908—Gaming Tax Law for Indian
Tribal Governments has been revised.
The updated version is now available through our Distribution

Federal Tax Calendar for Fourth Quarter 2003

October 2003

SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3 * Payroll date 9/27 - 9/30	4
5	6	7	8 * Payroll date 10/1 - 10/3	9	10 * Payroll date 10/4 - 10/7 Employees report September tips to employer	11
12	13	14	15 ** Monthly payroll tax deposit for September	16 * Payroll date 10/8 - 10/10	17 * Payroll date 10/11 - 10/14	18
19	20	21	22 * Payroll date 10/15 - 10/17	23	24 * Payroll date 10/18 - 10/21	25
26	27	28	29 * Payroll date 10/22 - 10/24	30	31 * Payroll date 10/25 - 10/28	

November 2003

SUN	MON	TUE	WED	THU	FRI	SAT
						1
2	3	4	5 * Payroll date 10/29 - 10/31	6	7 * Payroll date 11/1 - 11/4	8
9	10 Employees report October tips to employer	11	12	13 * Payroll date 11/5 - 11/7	14 * Payroll date 11/8 - 11/11	15
16	17 ** Monthly payroll tax deposit for October	18	19 * Payroll date 11/12 - 11/14	20	21 * Payroll date 11/15 - 11/18	22
23	24	25	26 * Payroll date 11/19 - 11/21	27	28	29
30						

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule. ** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed.



December 2003

SUN	MON	TUE	WED	THU	FRI	SAT
	1 * Payroll date 11/22-11/25	2	3 * Payroll date 11/26-11/28	4	5 * Payroll date 11/29-12/2	6
7	8	9	10 * Payroll date 12/3 - 12/5 > Employees report November tips to	11	12 * Payroll date 12/6 - 12/9	13
14	15 ** Monthly payroll tax deposit for November	16	17 * Payroll date 12/10-12/12	18	19 * Payroll date 12/13-12/16	20
21	22	23	24 * Payroll date 12/17-12/19	25	26	27
28	29 * Payroll date 12/20-12/23	30	31 * Payroll date 12/24-12/26			

* = Make a Payroll Deposit if you are under the semi-weekly deposit rule.

** = Make a Monthly Deposit if you qualify under that rule.

NOTE: Deposits made through EFTPS are due one day prior to the dates listed

Return Filing Dates

By October 31

File Form 941 for the third quarter of 2003. If the tax was deposited in full and on time, file by November 10.

File Form 730 on applicable wagers accepted during September 2003.

By November 30

File Form 730 for applicable wagers accepted during October 2003.

By December 31

File Form 730 for applicable wagers accepted during November 2003.